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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

PULSE~LINK INCORPORATED, Plaintiff, v. TZERO TECHNOLOGIES, INCORPORATED, Defendant.	Case No. 07 CV 2156 L (AJB) **Electronic Case Filing** **ANSWER TO COMPLAINT FOR PATENT INFRINGEMENT AND INJUNCTIVE RELIEF AND COUNTERCLAIMS** **JURY TRIAL DEMANDED**
TZERO TECHNOLOGIES, INCORPORATED, Counterclaimant, v. PULSE~LINK INCORPORATED, Counterdefendant.	

Defendant and Counterclaimant Tzero Technologies, Incorporated ("Tzero") hereby answers the Complaint for Patent Infringement and Injunctive Relief ("Complaint") filed by Plaintiff and Counterdefendant Pulse~Link Incorporated ("Pulse~Link") as follows:

McDermott Will & Emery LLP
Attorneys at Law
Palo Alto

NATURE OF THE ACTION

1. Tzero admits that the purpose of Ultra-Wideband communication technology is to enable the high-speed data distribution of TV and/or multimedia content over both wired and wireless connections. Except as specifically admitted, Tzero denies the remaining allegations in paragraph 1 of the Complaint.

2. Tzero denies the allegations in paragraph 2 of the Complaint.

THE PARTIES

3. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 3 of the Complaint.

4. Tzero admits the allegations of paragraph 4 of the Complaint.

5. Tzero admits the allegations of paragraph 5 of the Complaint.

JURISDICTION AND VENUE

6. Tzero admits that Pulse~Link alleges an action for patent infringement. Tzero admits that Pulse~Link alleges that its patent claims arise under the Patent Laws of the United States, Title 35 U.S.C. §§ 1 et seq. Tzero admits that this Court has subject matter jurisdiction over the claims. Except as specifically admitted, Tzero denies the remaining allegations of paragraph 6 of the Complaint.

7. Tzero admits that venue is proper in this district and that Tzero conducts business in this district. Except as specifically admitted, Tzero denies the remaining allegations in paragraph 7 of the Complaint.

FACTUAL BACKGROUND

8. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 8 of the Complaint and, on that basis, denies the allegations.

9. Tzero denies the allegations in paragraph 9 of the Complaint.

10. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 10 of the Complaint and, on that basis, denies the allegations.

11. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 11 of the Complaint and, on that basis, denies the allegations.

12. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 12 of the Complaint and, on that basis, denies the allegations.

13. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 13 of the Complaint and, on that basis, denies the allegations.

14. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 14 of the Complaint and, on that basis, denies the allegations.

15. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 15 of the Complaint and, on that basis, denies the allegations.

16. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 16 of the Complaint and, on that basis, denies the allegations.

17. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 17 of the Complaint and, on that basis, denies the allegations.

18. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 18 of the Complaint and, on that basis, denies the allegations.

19. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 19 of the Complaint and, on that basis, denies the allegations.

20. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 20 of the Complaint and, on that basis, denies the allegations.

U.S. Patent No. 6,895,034

21. Tzero admits that U.S. Patent No. 6,895,034 ("'034 Patent") is entitled "Ultra-Wideband Pulse Generation System And Method", the face of the patent indicates that the date of the patent is May 17, 2005, and a purported copy of the patent is attached to the Complaint as Exhibit A. Except as specifically admitted, Tzero denies the remaining allegations of paragraph 21 of the Complaint.

22. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 22 of the Complaint and, on that basis, denies the allegations.

23. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 23 of the Complaint and, on that basis, denies the allegations.

U.S. Patent No. 7,099,368

24. Tzero admits that U.S. Patent No. 7,099,368 ("'368 Patent") is entitled "Ultra-Wideband Communication Through A Wire Medium", the face of the patent indicates that the date of the patent is August 29, 2006, and a purported copy of the patent is attached to the Complaint as Exhibit B. Tzero denies the remaining allegations of paragraph 24 of the Complaint.

25. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 25 of the Complaint and, on that basis, denies the allegations.

26. Tzero lacks sufficient information on which to admit or deny the allegations of paragraph 26 of the Complaint and, on that basis, denies the allegations.

FIRST CAUSE OF ACTION

27. Tzero incorporates its responses to the allegations in paragraphs 1 through 26 of the Complaint, as though fully set forth herein.

28. Tzero denies the allegations in paragraph 28 of the Complaint.

29. Tzero denies the allegations in paragraph 29 of the Complaint.

30. Tzero denies the allegations in paragraph 30 of the Complaint.

31. Tzero denies the allegations in paragraph 31 of the Complaint.

32. Tzero denies the allegations in paragraph 32 of the Complaint.

SECOND CAUSE OF ACTION

33. Tzero incorporates its responses to the allegations in paragraphs 1 through 32 of the Complaint, as though fully set forth herein.

34. Tzero denies the allegations in paragraph 34 of the Complaint.

35. Tzero denies the allegations in paragraph 35 of the Complaint.

36. Tzero denies the allegations in paragraph 36 of the Complaint.

37. Tzero denies the allegations in paragraph 37 of the Complaint.

38. Tzero denies the allegations in paragraph 38 of the Complaint.

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PRAYER

39. Tzero denies that Pulse~Link is entitled to any judgment or award of relief at all, including the judgment and the award of relief requested in the "Prayer" section of the Complaint. Pulse~Link's prayer for judgment and request for relief should be denied in its entirety with prejudice.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSES

40. Pulse~Link is not entitled to any relief against Tzero because Tzero is not infringing, and has not infringed, directly, by inducement, contributorily, or in any way, any claim of the '034 Patent and the '368 Patent.

SECOND AFFIRMATIVE DEFENSE

41. On information and belief, Pulse~Link's claim for relief is barred, in whole or in part, by the application of the doctrine of equitable estoppel, including, but not limited to, the doctrine of prosecution history estoppel.

THIRD AFFIRMATIVE DEFENSE

42. One or more claims of the '034 Patent is invalid under one or more sections of Title 35 of the U.S. Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, and 112.

FOURTH AFFIRMATIVE DENSE

43. One or more claims of the '368 Patent is invalid under one or more sections of Title 35 of the U.S. Code, including, without limitation, 35 U.S.C. §§ 101, 102, 103, and 112.

FIFTH AFFIRMATIVE DEFENSE

44. On information and belief, Pulse~Link's claim and prayer for damages is barred, in whole or in part, by 35 U.S.C. § 287.

SIXTH AFFIRMATIVE DEFENSE

45. On information and belief, Pulse~Link's claim for relief is barred, in whole or in part, by the equitable doctrine of laches or waiver, or both.

SEVENTH AFFIRMATIVE DEFENSE

46. The Complaint fails to state a claim upon which relief can be granted.

EIGHTH AFFIRMATIVE DEFENSE

47. On information and belief, Pulse~Link is not entitled to any relief against Tzero because Pulse~Link lacks the proper standing to sue on and/or has failed to join the necessary parties.

NINTH AFFIRMATIVE DEFENSE

48. On information and belief, Pulse~Link's claim is barred, in whole or in part, based on patent licenses.

COUNTERCLAIMS

Tzero counterclaims against Pulse~Link as follows:

49. Tzero files this counterclaim against Pulse~Link under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., and the patent laws of the United States, 35 U.S.C. §§ 1 et seq., for a judgment declaring that the '034 Patent and the '368 Patent are not infringed and are invalid.

THE PARTIES

50. Tzero is a Delaware corporation with its principal place of business at 455 West Maude Avenue, Suite 100, Sunnyvale, CA 94085.

51. On information and belief, Pulse~Link is a Delaware corporation with its principal place of business at 1969 Kellogg Avenue, Carlsbad, CA 92008.

JURISDICTION AND VENUE

52. This Court has jurisdiction over Pulse~Link under 28 U.S.C. §§ 1331, 1338, 2201, and 2202 and venue is proper because Pulse~Link is resident in this district.

53. Pulse~Link has accused Tzero of infringement of the '034 Patent and the '368 Patent. Tzero denies infringement and asserts that the '034 Patent and the '368 Patent are invalid. Accordingly, an actual case or controversy exists between Pulse~Link and Tzero regarding the '034 Patent and the '368 Patent. Therefore, this Court has subject matter jurisdiction over these claims for declaratory judgment in accordance with the provisions of 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

McDermott Will & Emery LLP
Attorneys at Law
Palo Alto

COUNT I

Declaratory Judgment as to U.S. Patent No. 6,895,034

54. Tzero repeats and realleges the allegations of paragraphs 49 through 53 as though fully set forth herein.

55. The '034 Patent is invalid because it does not present a patentable advance over the prior art and otherwise fails to meet the requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

56. Tzero does not directly infringe any claim of the '034 Patent, nor does it induce or contribute to the infringement of the '034 Patent by others.

57. Tzero is thereby entitled to a declaratory judgment that it is not liable for infringement of the '034 Patent.

COUNT II

Declaratory Judgment as to U.S. Patent No. 7,099,368

58. Tzero repeats and realleges the allegations of paragraphs 49 through 57 as though fully set forth herein.

59. The '368 Patent is invalid because it does not present a patentable advance over the prior art and otherwise fails to meet the requirements of 35 U.S.C. §§ 101, 102, 103, and/or 112.

60. Tzero does not directly infringe any claim of the '368 Patent, nor does it induce or contribute to the infringement of the '368 Patent by others.

61. Tzero is thereby entitled to a declaratory judgment that it is not liable for infringement of the '368 Patent.

PRAYER FOR RELIEF

WHEREFORE, Tzero respectfully requests that judgment be entered in its favor and against Pulse~Link and that the Court grant the following relief:

1. Dismissal of all of Pulse~Link's claims in their entirety with prejudice;
2. A declaration that:
   - (a) The '034 Patent is invalid;
   - (b) The '368 Patent is invalid;

(c) Tzero has not infringed the '034 Patent or the '368 Patent, and Pulse~Link take nothing by its claims.

3. A declaration that this case is exceptional under 35 U.S.C. § 285 and an award to Tzero of its costs and reasonable attorneys' fees incurred in the prosecution and defense of this action; and

4. An order awarding such other relief as the Court deems just and proper.

JURY DEMAND

Tzero demands a trial by jury on all issues so triable.

Dated: January 2, 2008

McDERMOTT WILL & EMERY LLP

By: s/Terrence P. McMahon
Terrence P. McMahon
Stephen J. Akerley
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